

HOUSE BILL 4

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2000 Regular Session
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(PRE-FILED)

By: Delegates Taylor, Dewberry, Hurson, Busch, Guns, Harrison, Hixson, Howard, Kopp, Menes, Montague, Rawlings, Rosenberg, and Vallario
Vallario, W. Baker, Barkley, Bobo, Brown, Cane, Clagett, Conroy,
DeCarlo, Donoghue, Doory, Dvpski, Finifter, Franchot, Frush,
Giannetti, Goldwater, Griffith, Healey, Hecht, Hubers, James, V. Jones,
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Nathan-Pulliam, Pendergrass, Pitkin, Rosso, Stern, Stocksdale, Turner,
Valderrama, Weir, and Zirkin

Requested: November 15, 1999

Introduced and read first time: January 12, 2000

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2000

CHAPTER _____

1 AN ACT concerning

2 **Nonprofit Health Entity Responsibility Act of 2000**

3 FOR the purpose of requiring nonprofit hospitals to perform a certain annual
4 community needs assessment in consultation with certain persons; requiring
5 nonprofit hospitals to develop a certain written plan; requiring nonprofit
6 hospitals to submit a certain report to the Health Services Cost Review
7 Commission; specifying the contents of a certain report; requiring the
8 Commission to write a certain report; requiring the Commission to make a
9 certain report available to the public; requiring the Commission to submit a
10 certain report to the House Economic Matters Committee and the Senate
11 Finance Committee annually; requiring the Commission to establish a format
12 for reporting certain information; expressing a certain public policy; imposing
13 certain requirements on certain nonprofit health service plans; making a certain
14 tax exemption subject to certain requirements; requiring certain nonprofit
15 health service plans to submit an annual report; providing that a nonprofit
16 health service plan can satisfy certain requirements by establishing certain
17 facts; providing that a specific activity does not satisfy certain requirements;
18 altering a certain standard for determining excess surplus for nonprofit health
19 service plans; requiring the Maryland Insurance Commissioner to issue a
20 certain order; defining certain terms; providing certain penalties; providing for a

1 certain hearing; and generally relating to nonprofit health entities.

2 BY adding to

3 Article - Health - General

4 Section 19-303

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 1999 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Insurance

9 Section 6-101

10 Annotated Code of Maryland

11 (1997 Volume and 1999 Supplement)

12 BY adding to

13 Article - Insurance

14 Section 14-106 and 14-107

15 Annotated Code of Maryland

16 (1997 Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article - Insurance

19 Section 14-117(e)

20 Annotated Code of Maryland

21 (1997 Volume and 1999 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Health - General**

25 19-303.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (2) "COMMISSION" MEANS THE HEALTH SERVICES COST REVIEW
29 COMMISSION.

30 (3) "COMMUNITY BENEFIT" MEANS AN ACTIVITY THAT IS INTENDED TO
31 ADDRESS COMMUNITY NEEDS AND PRIORITIES PRIMARILY THROUGH DISEASE
32 PREVENTION AND IMPROVEMENT OF HEALTH STATUS, INCLUDING:

33 (I) HEALTH SERVICES PROVIDED TO VULNERABLE OR
34 UNDERSERVED POPULATIONS SUCH AS MEDICAID, MEDICARE, OR MARYLAND
35 CHILDREN'S HEALTH PROGRAM ENROLLEES;

1 (II) FINANCIAL OR IN KIND SUPPORT OF PUBLIC HEALTH
2 PROGRAMS;

3 (III) DONATIONS OF FUNDS, PROPERTY, OR OTHER RESOURCES
4 THAT CONTRIBUTE TO A COMMUNITY PRIORITY;

5 (IV) HEALTH CARE COST CONTAINMENT ACTIVITIES; AND

6 (V) HEALTH EDUCATION, SCREENING, AND PREVENTION
7 SERVICES.

8 (4) "COMMUNITY NEEDS ASSESSMENT" MEANS THE PROCESS BY WHICH
9 A NONPROFIT HOSPITAL IDENTIFIES UNMET COMMUNITY HEALTH CARE NEEDS AND
10 PRIORITIES.

11 (B) ~~TO ASSIST IN IDENTIFYING COMMUNITY NEEDS, A NONPROFIT HOSPITAL:~~

12 ~~(1) MAY CONSIDER, IF AVAILABLE, AN ANNUAL COMMUNITY NEEDS~~
13 ~~ASSESSMENT DEVELOPED BY THE DEPARTMENT OR THE LOCAL HEALTH~~
14 ~~DEPARTMENT FOR THE COUNTY IN WHICH THE NONPROFIT HOSPITAL IS LOCATED;~~

15 ~~(2) MAY CONSULT WITH COMMUNITY LEADERS AND LOCAL HEALTH~~
16 ~~CARE PROVIDERS; OR~~

17 ~~(3) MAY CONSULT WITH ANY APPROPRIATE PERSON THAT CAN ASSIST~~
18 ~~THE HOSPITAL IN IDENTIFYING COMMUNITY HEALTH NEEDS. EACH NONPROFIT~~
19 ~~HOSPITAL SHALL PERFORM AN ANNUAL COMMUNITY NEEDS ASSESSMENT IN~~
20 ~~CONSULTATION WITH:~~

21 ~~(1) THE LOCAL HEALTH DEPARTMENT AND THE LOCAL HEALTH~~
22 ~~PLANNING AGENCY, WHERE APPROPRIATE, FOR THE COUNTY IN WHICH THE~~
23 ~~NONPROFIT HOSPITAL IS LOCATED;~~

24 ~~(2) COMMUNITY LEADERS;~~

25 ~~(3) LOCAL HEALTH CARE PROVIDERS; AND~~

26 ~~(4) AT THE DISCRETION OF THE HOSPITAL, ANY OTHER PERSON THAT~~
27 ~~CAN ASSIST IN IDENTIFYING COMMUNITY HEALTH NEEDS.~~

28 (C) (1) BASED ON THE FINDINGS OF THE ANNUAL COMMUNITY NEEDS
29 ASSESSMENT, EACH NONPROFIT HOSPITAL SHALL DEVELOP A WRITTEN PLAN FOR
30 PROVIDING COMMUNITY HEALTH BENEFITS.

31 (2) THE WRITTEN PLAN DEVELOPED UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION SHALL INCLUDE:

33 (I) MEASURABLE OBJECTIVES TO BE ACHIEVED WITHIN SPECIFIC
34 TIME FRAMES; AND

1 (II) MECHANISMS TO EVALUATE THE EFFECTIVENESS OF THE
 2 PLAN.

3 ~~(C)~~ (D) (1) EACH NONPROFIT HOSPITAL SHALL SUBMIT AN ANNUAL
 4 COMMUNITY BENEFIT REPORT TO THE HEALTH SERVICES COST REVIEW
 5 COMMISSION DETAILING THE COMMUNITY BENEFITS PROVIDED BY THE HOSPITAL
 6 DURING THE PRECEDING YEAR.

7 (2) THE COMMUNITY BENEFIT REPORT SHALL INCLUDE:

8 (I) A COPY OF THE WRITTEN PLAN DEVELOPED UNDER
 9 SUBSECTION (C) OF THIS SECTION;

10 ~~(H)~~ (II) THE MISSION STATEMENT OF THE HOSPITAL;

11 ~~(H)~~ (III) A LIST OF THE INITIATIVES THAT WERE UNDERTAKEN BY
 12 THE HOSPITAL;

13 ~~(H)~~ (IV) THE COST TO THE HOSPITAL OF EACH COMMUNITY
 14 BENEFIT INITIATIVE;

15 (V) THE OBJECTIVES OF EACH COMMUNITY BENEFIT INITIATIVE;

16 ~~(V)~~ (VI) AN EVALUATION OF THE EFFECTIVENESS OF EACH
 17 INITIATIVE BASED ON THE MEASURES CONTAINED IN THE WRITTEN PLAN; AND

18 ~~(V)~~ (VII) ANY OTHER INFORMATION REQUIRED BY THE
 19 COMMISSION.

20 ~~(D)~~ (E) (1) THE COMMISSION SHALL COMPILE THE REPORTS REQUIRED
 21 UNDER SUBSECTION ~~(C)~~ (D) OF THIS SECTION AND ISSUE AN ANNUAL NONPROFIT
 22 HOSPITAL COMMUNITY HEALTH BENEFIT REPORT.

23 (2) THE NONPROFIT HOSPITAL COMMUNITY BENEFIT REPORT SHALL BE
 24 MADE AVAILABLE TO THE PUBLIC FREE OF CHARGE.

25 ~~(E)~~ (F) THE COMMISSION SHALL, IN CONSULTATION WITH
 26 REPRESENTATIVES OF NONPROFIT HOSPITALS, ESTABLISH A STANDARD FORMAT
 27 FOR REPORTING THE INFORMATION REQUIRED UNDER THIS SECTION.

28 **Article - Insurance**

29 6-101.

30 (a) The following persons are subject to taxation under this subtitle:

31 (1) a person engaged as principal in the business of writing insurance
 32 contracts, surety contracts, guaranty contracts, or annuity contracts;

33 (2) an attorney in fact for a reciprocal insurer;

1 (3) the Maryland Automobile Insurance Fund; and

2 (4) a credit indemnity company.

3 (b) The following persons are not subject to taxation under this subtitle:

4 (1) a nonprofit health service plan corporation THAT MEETS THE
5 REQUIREMENTS ESTABLISHED UNDER §§ 14-106 AND 14-107 OF THIS ARTICLE;

6 (2) a fraternal benefit society;

7 (3) a health maintenance organization authorized by Title 19, Subtitle 7
8 of the Health - General Article;

9 (4) a surplus lines broker, who is subject to taxation in accordance with
10 Title 3, Subtitle 3 of this article; or

11 (5) an unauthorized insurer, who is subject to taxation in accordance
12 with Title 4, Subtitle 2 of this article.

13 14-106.

14 (A) IT IS THE PUBLIC POLICY OF THIS STATE THAT THE EXEMPTION FROM
15 TAXATION FOR NONPROFIT HEALTH SERVICE PLANS UNDER § 6-101(B)(1) OF THIS
16 ARTICLE IS GRANTED SO THAT FUNDS WHICH WOULD OTHERWISE BE COLLECTED
17 BY THE STATE AND SPENT FOR A PUBLIC PURPOSE SHALL BE USED IN A LIKE
18 MANNER AND AMOUNT BY THE NONPROFIT HEALTH SERVICE PLAN.

19 (B) BY MARCH 1 OF EACH YEAR OR A DEADLINE OTHERWISE IMPOSED BY THE
20 COMMISSIONER FOR GOOD CAUSE, EACH NONPROFIT HEALTH SERVICE PLAN SHALL
21 FILE WITH THE COMMISSIONER A PREMIUM TAX EXEMPTION REPORT THAT:

22 (1) IS IN A FORM APPROVED BY THE COMMISSIONER; AND

23 (2) DEMONSTRATES THAT THE PLAN HAS USED FUNDS EQUAL TO THE
24 VALUE OF THE PREMIUM TAX EXEMPTION PROVIDED TO THE PLAN UNDER § 6-101(B)
25 OF THIS ARTICLE, IN A MANNER THAT SERVES THE PUBLIC INTEREST IN
26 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

27 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A NONPROFIT
28 HEALTH SERVICE PLAN MAY SATISFY THE PUBLIC SERVICE REQUIREMENT IN
29 SUBSECTION (B)(2) OF THIS SECTION BY ESTABLISHING THAT THE PLAN HAS:

30 (1) INCREASED ACCESS TO, OR THE AFFORDABILITY OF, ONE OR MORE
31 HEALTH CARE PRODUCTS OR SERVICES BY OFFERING AND SELLING HEALTH CARE
32 PRODUCTS OR SERVICES THAT ARE NOT REQUIRED OR PROVIDED FOR BY LAW;

33 (2) THROUGH PRICING POLICIES DESIGNED TO ENHANCE THE
34 AFFORDABILITY OF HEALTH CARE PRODUCTS OR SERVICES THAT ARE REQUIRED OR
35 PROVIDED FOR BY LAW, USED A GREATER PERCENTAGE OF PREMIUMS COLLECTED

1 FOR MEDICAL CARE THAN A COMPARABLE FOR PROFIT HEALTH INSURER AS
2 DETERMINED BY THE COMMISSIONER;

3 (3) USED UNDERWRITING STANDARDS NOT REQUIRED BY LAW TO
4 INCREASE THE AVAILABILITY OF ONE OR MORE HEALTH CARE SERVICES OR
5 PRODUCTS; OR

6 (4) SERVED THE PUBLIC INTEREST BY ANY METHOD OR PRACTICE
7 APPROVED BY THE COMMISSIONER.

8 (D) THE COMMISSIONER MAY NOT CONSIDER THE FACT THAT A NONPROFIT
9 HEALTH SERVICE PLAN OFFERS A PRODUCT THROUGH THE SUBSTANTIAL,
10 AVAILABLE, AFFORDABLE COVERAGE PROGRAM WHEN DETERMINING WHETHER
11 THE PLAN HAS SATISFIED THE REQUIREMENTS OF SUBSECTION (B)(2) OF THIS
12 SECTION.

13 ~~(D)~~ (E) EACH REPORT FILED WITH THE COMMISSIONER UNDER
14 SUBSECTION (B) OF THIS SECTION IS A PUBLIC RECORD.

15 14-107.

16 (A) BY NOVEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL ISSUE AN
17 ORDER NOTIFYING EACH NONPROFIT HEALTH SERVICE PLAN OF WHETHER THE
18 PLAN HAS SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE.

19 (B) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF~~
20 ~~THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH SERVICE PLAN HAS~~
21 ~~NOT MET SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE, THE~~
22 ~~NONPROFIT HEALTH SERVICE PLAN SHALL BE SUBJECT TO THE PREMIUM TAX~~
23 ~~UNDER TITLE 6, SUBTITLE 1 OF THIS ARTICLE, BEGINNING IN THE CALENDAR YEAR~~
24 ~~AFTER THE YEAR IN WHICH THE REPORT WAS FILED HAVE ONE YEAR FROM THE~~
25 ~~DATE THE COMMISSIONER ISSUED THE ORDER UNDER SUBSECTION (A) OF THIS~~
26 ~~SECTION TO COMPLY WITH THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE.~~

27 (2) IF AFTER THE TIME PERIOD PROVIDED UNDER PARAGRAPH (1) OF
28 THIS SUBSECTION THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH
29 SERVICE PLAN HAS NOT SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS
30 SUBTITLE, THE NONPROFIT HEALTH SERVICE PLAN SHALL BE SUBJECT TO THE
31 PREMIUM TAX UNDER TITLE 6, SUBTITLE 1 OF THIS ARTICLE, BEGINNING IN THE
32 NEXT CALENDAR YEAR.

33 ~~(2)~~ (C) A NONPROFIT HEALTH SERVICE PLAN THAT FAILS TO TIMELY
34 FILE THE REPORT REQUIRED UNDER § 14-106 OF THIS SUBTITLE:

35 ~~(1)~~ (1) SHALL PAY THE PENALTIES UNDER § 14-121 OF THIS
36 SUBTITLE; AND

37 ~~(2)~~ (2) MAY BE SUBJECT TO AN ORDER REQUIRING THE PLAN TO
38 PAY THE PREMIUM TAX.

1 (3) (D) A PARTY AGGRIEVED BY AN ORDER OF THE COMMISSIONER
2 ISSUED UNDER THIS SECTION HAS A RIGHT TO A HEARING IN ACCORDANCE WITH §§
3 2-210 THROUGH 2-215 OF THIS ARTICLE.

4 14-117.

5 (e) (1) The surplus of a corporation authorized under this subtitle may be
6 considered to be excessive only if:

7 (i) the surplus is greater than [30% of the total earned premium
8 received by the corporation in] THE APPLICABLE RISK BASED CAPITAL
9 REQUIREMENTS AS DETERMINED BY THE COMMISSIONER FOR the immediately
10 preceding calendar year; and

11 (ii) after a hearing, the Commissioner determines that the surplus
12 is unreasonably large.

13 (2) After the Commissioner has determined the surplus of a corporation
14 authorized under this subtitle to be excessive, the Commissioner:

15 (i) may order the corporation to submit a plan for distribution of
16 the excess in a fair and equitable manner; or

17 (ii) if the corporation fails to submit a plan of distribution within 60
18 days, may compile a plan and order the corporation to implement it.

19 (3) A distribution ordered under paragraph (2) of this subsection may be
20 made only to subscribers who are covered by the corporation's nonprofit health
21 service plan at the time the distribution is made.

22 SECTION 2. AND BE IT FURTHER ENACTED, That, each year, the Health
23 Services Cost Review Commission shall submit a copy of the Annual Nonprofit
24 Hospital Community Health Benefit Report required under this Act to the House
25 Economic Matters Committee and the Senate Finance Committee.

26 SECTION 2-3. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2000.